

## European Commission Public Consultation on the Revision of the EU Emission Trading System (EU ETS) Directive

### Introduction

On 24 October 2014, the European Council agreed on the 2030 framework for climate and energy, including a binding domestic target for reducing greenhouse gas (GHG) emissions of at least 40% in 2030 as compared to 1990. To meet this target, the European Council agreed that the emissions in the EU Emission Trading System should be reduced, compared to 2005, by 43%. A reformed EU ETS remains the main instrument to achieve the emission reduction target. The cap will decline based on an annual linear reduction factor of 2.2% (instead of the current 1.74%) from 2021 onwards, to achieve the necessary emission reductions in the EU ETS. The European Council furthermore gave strategic guidance on several issues regarding the implementation of the emission reduction target, namely free allocation to industry, the establishment of a modernisation and an innovation fund, optional free allocation of allowances to modernise electricity generation in some Member States.

The strategic guidance given by European leaders on these elements will be translated into a legislative proposal to revise the EU ETS for the period post-2020. This constitutes an important part of the work on the achievement of a resilient Energy Union with a forward looking climate change policy, which has been identified as a key policy area in President Juncker's political guidelines for the new Commission.

The purpose of the present stakeholder consultation is to gather stakeholders' views on these elements. This consultation focuses on issues not yet addressed in the consultations recently conducted for the 2030 Impact Assessment, the Impact Assessment for the carbon leakage list for 2015-2019 and the consultation conducted on post-2020 carbon leakage provisions.

In order to take stock of the EU ETS (established by Directive 2003/87/EC) as a policy measure, this consultation also contains questions concerning the general evaluation of this policy measure. The questionnaire consists of 7 chapters. You are invited to answer questions on the chapters which are relevant to you.

### 0. Registration

#### 0.1. What is your profile?\*

- Business
- A small and medium enterprise
- Trade association representing businesses
- SME business organisation
- Government institution/regulatory authority
- Academic/research institution
- Non-governmental organisation
- Citizen
- Other

**0.2. Please enter the name of your business/organisation/association etc.:**\*

EUROFER (The European Steel Association)

**0.3. Please enter your contact details (address, telephone, email):**\*

Jean Theo Ghenda ([JT.Ghenda@eurofer.be](mailto:JT.Ghenda@eurofer.be)), +32 (0) 2 738 79 33, EUROFER, Avenue de Cortenbergh 172, B-1000 Brussels

**0.4. If relevant, please state if the sector/industry you represent falls under the scope of the EU ETS:**\*

- yes
- no
- not relevant

Please explain:

EUROFER, the European Steel Association, represents almost 100 percent of steel made in EU. Our sector activities are listed in Annex I of the Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending the Directive 2003/87/EC.

**0.5. If relevant, please state what sector your represent:**\*

- Energy-intensive industry
- Energy sector
- Other

Please specify:

Steel making and processing involve a series of energy intensive processes.

**0.6. The results of this stakeholder consultation will be published unless stated otherwise. Can we include your replies in the publication?\***

- yes
- no
- partially

Please state which given information is sensitive and cannot be disclosed:

N.A.

**0.7. Register ID number (if you/your organisation is registered in the Transparency register):**

Register ID: 93038071152-83

## 1. Free allocation and addressing the risk of carbon leakage

The European Council has concluded that free allocation to prevent the risk of carbon leakage should not expire as foreseen in the current legislation, but should continue also after 2020 as long as there are no comparable efforts to reduce emissions in other major economies.

Extensive stakeholder consultation was already carried out on the post-2020 carbon leakage provisions, as well as on aspects related to innovation support. The process included three full-day stakeholder meetings (June, July and September 2014) and a written consultation conducted for 12 weeks (8 May – 31 July, 2014). The written consultation covered 23 multiple choice questions with space for motivations, and a question allowing respondents to bring up any other issue they felt was important or insufficiently covered.

The documents and minutes of the meetings, as well as the submissions and the analysis thereof in the case of the written consultation, are available on the Commission website.

Information from the stakeholder meetings:

[http://ec.europa.eu/clima/events/articles/0090\\_en.htm](http://ec.europa.eu/clima/events/articles/0090_en.htm)

[http://ec.europa.eu/clima/events/articles/0095\\_en.htm](http://ec.europa.eu/clima/events/articles/0095_en.htm)

[http://ec.europa.eu/clima/events/articles/0097\\_en.htm](http://ec.europa.eu/clima/events/articles/0097_en.htm)

Replies and summary of the written consultation:

[http://ec.europa.eu/clima/consultations/articles/0023\\_en.htm](http://ec.europa.eu/clima/consultations/articles/0023_en.htm)

The results of the above mentioned public consultation are being taken into account in the preparation of the legislative proposal. In order to reduce the administrative burden for stakeholders and the Commission, the present consultation focuses on issues not already covered in this recently finalised public consultation. Respondents are nevertheless invited to add to the replies provided in the earlier consultations if deemed necessary in the light of the conclusions of the European Council in this area.

**1.1 The European Council called for a periodic revision of benchmarks in line with technological progress. How could this be best achieved in your view and, in particular, which data could be used to this end? How frequently should benchmarks be updated, keeping in mind administrative feasibility?**

3569 characters

The EU ETS directive foresees the allocation of free allowances by means of ex ante benchmarks. These ex ante benchmarks should be established on the basis of historical data (as with the 2007-2008 data used for the 2013-2020 allocation period) and set at the average of the best 10%.

As new techniques and technologies come regularly into the market, the Council's call for a periodical review of the benchmarks in order to take into consideration technological progress in the industry is justified. Such a periodical review should help maintain the incentive for companies to align to best performances, but it can achieve this only if at the same time, the competitiveness of carbon leakage industries is supported. For this reason, there must be a guarantee that the actual amount of free allowances allocated will fully cover all the emissions of an installation operating at the benchmark.

As the establishment of benchmarks is rather burdensome in terms of data requirements, only two years should be used (as for the 2013-2020 allocation period), with a sufficient time lag so as to work out the benchmarks in good conditions (e.g. 6 years' time lag like for the 2013-2020 allocation period, meaning data from 2015-2016 would be used for the benchmarks 2021-2030). There also needs to be an adequate period afterwards to iron out any contested outcomes, and allow installations to adapt to the new provisions.

The benchmarks should be updated at most once per trading period to provide some planning certainty and predictability for participants, decrease the administrative expense to more proportionate burdens and provide an appropriate reward for those that have invested in emissions reductions.

The process of establishing benchmarks must also be as transparent as possible and fully comparable between sectors.

It is of utmost importance that the benchmarks are set on the basis of the best performers of a sector in order to only take into consideration technologies that have been adopted by the market and implemented successfully, i.e. in a cost-effective way.

A top-down approach (i.e. imposing technologies by including them in the benchmark calculation) must be avoided as such an approach doesn't capture the reality of technological progress or the very long investment cycles seen in heavy industries. The benchmarks must rather be defined bottom-up, starting from real performance levels, and this taking into consideration the roadmaps provided by the industry sectors following the request of the EU Commission.

In this regard, the benchmarking principles (10% best installations) laid down in the EU ETS should in general not be amended. As far as the benchmarks of the steel sector are concerned, a clarification should be implemented in the ETS directive so that electricity made from waste gases is fully exempted from any shortening of the benchmarks.

As the European Council asks that best performing plants don't have to face undue costs, best performing plants should be able to actually comply with the sector benchmark. This is the case in almost all sectors, but not in some, like steel. Indeed the coke, hot-metal and sinter benchmarks are currently not technically reachable for the best plants in the steel industry, which consequently will have to buy allowances already way before the end of the current ETS phase ending in 2020.

Consequently, the Council text means that a proposal has to be launched soon to improve these benchmarks, in particular the benchmarks of the steel industry, so as to make them technically reachable.

**1.2 The European Council has defined guiding principles for the development of post-2020 free allocation rules which provide inter alia that "both direct and indirect costs will be taken into account, in line with the EU state aid rules" and that "the most efficient installations in these sectors should not face undue carbon costs leading to carbon leakage" while "incentives for industry to innovate will be fully preserved and administrative complexity will not be increased" and while "ensuring affordable energy prices". Do you have views how these principles should be reflected in the future free allocation rules?**

3742 characters

The EU Council conclusions of 24 October 2014 gave clear guidance on protecting the competitiveness of EU industry sectors at risk of carbon leakage. The best way to achieve this objective will be full free allocation for both direct and indirect CO<sub>2</sub> costs at the level of the most efficient installations for sectors at risk of carbon leakage and the cancellation of any measures that automatically reduce free allocation for those sectors. This implies putting rapidly into legislation the following provisions:

- Deletion of the cross sectoral correction factor which started in 2013 to automatically cut down free allocation for all sectors at risk of carbon leakage, removing protections they are entitled to and need;
- Extension of carbon leakage provisions beyond 2020 as long as no comparable efforts are undertaken in other major economies (100% free allocation at the level of the 10% most efficient installations);
- A system that fully off-sets indirect costs (CO<sub>2</sub> cost-pass through in electricity prices) in all member states;
- Technically and economically achievable benchmarks for free allocation, periodically reviewed in line with technological progress in the respective industry sectors, taking fully into account the unavoidability of process gases/waste gases;
- Allowing growth and stop rewarding production reduction; allocation must be more closely aligned with recent production levels to provide more support to companies expanding production, help prevent future surpluses building up, stop ETS participants being rewarded for moving production overseas and ensure enough allowances are available to those installations that really need them;
- A the methodology for drawing up the carbon leakage list must be based on projected carbon prices in the phase ahead to ensure vulnerable companies are not left exposed if prices rise (as they are expected to with the MSR) and the list itself must be revised at most once every phase to give more predictability. If any sectors are removed from the list, the removal of their free allowances must be done gradually and with due warning

“Both direct and indirect carbon costs” means that there should be no prioritization between the direct and the indirect carbon costs; both costs should be treated equally as they are both very important for the competitiveness of EU industry.

The Council Conclusions also refer to “undue costs”; with regard to international competitiveness they are direct and indirect CO<sub>2</sub> costs which competitors do not have. They are costs that endanger the competitiveness of Europe’s energy-intensive industries. They also include any allowances bought that do not lead to the optimal incentive – so when the benchmark is set too stringent like for steel sector.

The need to ensure “affordable energy prices” mandates the full off-setting of indirect CO<sub>2</sub> costs as those are entirely passed on by the power sector into electricity prices.

The measures foreseen in the EU ETS Directive to offset these indirect CO<sub>2</sub> costs (art 10a 6) have to date proved insufficient. They are not being implemented uniformly across the EU as only a small number of Member States have put in place indirect CO<sub>2</sub> costs offset schemes. Furthermore their application is subject to State-aid rules which will be phase out in 2020.

The existing measure must therefore be overhauled and turned into something providing an appropriate level of protection. Full off-setting of CO<sub>2</sub> cost pass-through in electricity prices could be done via harmonised and transparent rules in all member states, this preferably through free

allocation, or by redesigning the electricity market in a way that it prevents any carbon price pass through in electricity prices, or a combination of these.

### **1.3 Should free allocation be given from 2021 to 2030 to compensate those carbon costs which sectors pass through to customers? How could free allocation be best determined in order to avoid windfall profits?**

2252 characters

Granting free allocation to sectors able to pass through CO<sub>2</sub> costs to their customers undermines the cost-effectiveness of the EU ETS.

However, since the determination of the risk of carbon leakage of a sector is sometimes quite a challenging exercise (not least because of the lack of publically available data at sector or sub-sector level), it is preferable to apply the precautionary principle in cases where the leakage assessment doesn't deliver a clear-cut result. Removing a sector from the list may – should this be due to a carbon leakage assessment not having been carried out properly – have severe negative impacts on the EU economy.

If there is any risk of industries on the leakage list passing on costs, this could be minimised by focusing free allocation particularly on sectors that qualify under both the cost- and trade-intensity criteria.

In any case, energy-intensive sectors competing in global markets with prices set globally and trade flows towards and from the EU, like the steel sector, should be granted a flat level of 100% free allocation and indirect CO<sub>2</sub> compensation.

It is important not to confuse this discussion on “windfall profit” with questions related to allocation surpluses stemming from the ex-ante principle applied in times of serious economic downturn and immense reduction of production levels. The surplus of allowances in the industrial sectors is the result of the historical approach used to allocate to industry in the past. This approach is not able to adapt to outside shocks like the economic downturn and immense reduction of production levels.

It should be pointed out that the alleged “profits” made out these surpluses have been hugely outweighed by lost revenues and other crisis costs over the same period. The German steel federation WV Stahl has estimated that “surplus allocation” in the crisis years 2008-2010 have had a shadow cost of as high as 100 €/tCO<sub>2</sub>. Basing allocation on much more recent production data would alleviate this problem, as well as rewarding industrial growth.

At the same time, free allocation and compensation should be based on technically and economically achievable benchmarks and the cross sectoral correction factor should be removed to prevent under-allocation.

### **1.4 Are there any complementary aspects you would like to add to the replies given to the previous written consultation in the light of the European Council conclusions?**

4011 characters

The European Council Conclusions from October 2014 state that “On the basis of the principles identified in the March 2014 European Council conclusions, the European Council agreed today on the 2030 climate and energy policy framework for the European Union”. This has the consequence

that stipulations on energy intensive industries established in the European Council Conclusions of March 2014 can and must form the guiding principles for the implementation and interpretation (e.g. of the expression “undue costs”) of the European Council Conclusions from October 2014.

In this context most relevant are “a strong, resource-efficient and competitive European industrial base must be seen in relation to a coherent European climate and energy policy, including through addressing the issue of high energy costs, in particular for energy-intensive industries” and “a coherent European energy and climate policy must ensure affordable energy prices, industrial competitiveness, security of supply and achievement of our climate and environmental objectives”.

It is therefore crucial that the spirit and the intention of the EU Council are respected. In this context, all governments and particularly the EU Commission must follow up the proposed order of allocation for the EU ETS post-2020, as clearly laid down in the October Council conclusions; this starting with free allocation (Art. 2.4), followed by allocation to energy sectors in Member States with low GDP and various reserves, and finally the rest of allowances to be auctioned by Member States (Art. 2.9). Any other interpretation of the EU Council conclusions of 2014 would translate into the continuation of the cross sectoral correction factor and consequently mean additional CO<sub>2</sub> costs even for the most efficient installations of the sectors at risk of carbon leakage. This would be in contradiction with the clear mandate from Heads of State and government to maintain the international competitiveness of EU industry sectors at risk of carbon leakage.

There are also some core principles of free allocation that must be considered to ensure the system does not move backwards during its revision. These include ensuring there is a level-playing field for companies across Europe and consistent support for companies making the same products, even if their means of production differ. For steel, this means considering electric arc furnaces and integrated steelmaking sites with blast furnaces as a single sector when reviewing the carbon leakage list and ensuring adequate protection from both direct and indirect costs.

It is also important to create as much certainty for industry as possible, which means no subsequent rules should be introduced mid-phase that reduce the percentage of allowances a site can expect to receive.

Similarly, there needs to be a clear definition of what would constitute a ‘comparable effort’ by other major economies, especially in light of a possible UN deal in Paris later this year. This should clearly be a comparable effort by all major competitors for a particular sector, and would have to be fully equivalent in terms of emissions reductions, timescale and degree of enforcement. The means by which it is achieved should also not disadvantage EU industries over the long term and, as mentioned above, the level of free EU allocation must not be reduced mid-phase as this would create uncertainty.

Along the same lines, it is vital that any decision to remove sectors from the leakage list, or give them a lower level of allocation, for future phases is implemented gradually.

We are not happy with the precedent set by the introduction of the MSR ahead of other reforms to the ETS, including the reform of the leakage provisions needed to mitigate its impact, and want to avoid other decisions being made in this way. Any reforms to the MSR in future that might push up costs (for instance any changes to its thresholds) must be introduced only between phases and with sufficient warning for industry.

## 2. Innovation fund

The European Council has concluded that 400 million allowances in 2021 to 2030 should be dedicated for setting up an innovation fund to support demonstration projects of innovative renewable energy technologies, carbon capture and storage (CCS) as well as low carbon innovation in industrial sectors. To make this fund operational, a legal basis has to be created in the EU ETS Directive while further implementation modalities can be set out in secondary legislation. The work can build on the experience with the existing "NER300" programme which made available 300 million allowances for CCS and innovative renewable energy technologies.

With regard to establishing a legal basis for the innovation fund as part of the revision of the EU ETS Directive, the Commission seeks feedback on the following questions:

**2.1 Do you see reasons to modify the existing modalities applied in the first two calls of the NER300? Are there any modalities governing the NER 300 programme which could be simplified in the design of the innovation fund? If you see the need for changes, please be specific what aspects you would like to see changed and why.**

2121 characters

The extension of innovation support to industrial projects is welcome. The steel industry does not in principle support the removal of ETS allowances from the wider market, especially at a time when the free allocation promised to carbon leakage sectors is being slashed by the cross-sectoral correction factor, but if allowances are to be removed it is vital that there is fair access to innovation funding for all sectors impacted by the EU ETS.

The power sector has enjoyed substantial support for decarbonisation to date, but industry has not, despite the significant challenges some industrial sectors face in achieving long-term and deep carbon reduction. It is worth noting too that because of issues around scale, many industrial decarbonisation budgets will not be funded by member states alone. EU support here is crucial in testing, demonstrating and piloting alternative technologies.

However, this should not stop member states increasing the percentage of auction revenues returned to industry at the same time. The development of new technologies follows a pre-defined path (from development to deployment and commercialization) where different types and levels of support are needed. It is important to adequately define the appropriateness of each type of aid. Support is necessary at each stage in order to overcome the market barriers and failures specific to each stage.

The funding support from the next NER fund should be allocated to the most cost-efficient technology developments in each sector to ensure all eligible groups can access funds.

In addition, the current programme has too long a timescale and too much uncertainty about the level of funding likely to be received to work for industry.

Upfront/milestone based financing is a method that would tackle the most important flaw of the NER300 – being that applicants are not sure to get any money until the project has successfully been finished.

Furthermore, innovation support should not counteract carbon leakage protection measures. Funding dependent on fluctuations in the carbon price has serious flaws with regard to predictability.

**2.2 Do you consider that for the extended scope of supporting low-carbon innovation in industrial sectors the modalities should be the same as for CCS and innovative renewable energy technologies or is certain tailoring needed, e.g. pre-defined amounts, specific selection criteria? If possible, please provide specific examples of tailored modalities.**

1062 characters

In addition to the uncertainties in the current scheme mentioned above, it is much harder to be certain of the likelihood of success for industrial projects than perhaps for some renewable energy technologies, and any payback will be through savings alone, not through electricity sales. The modalities of the future scheme need to take this into account.

For similar reasons, it is important different categories of project are not pitted directly against each other, or underspending from one passed over to another. The thresholds for funding also need to be at an appropriate level to support small-scale demonstration projects, not just large commercial-scale schemes.

In any case, sources for funding must not and cannot be restricted to funds arising from the EU-ETS. Quite on the contrary, this far-reaching transformation of the European Society needs to be supported by decent funds reflecting the true requirements for R&D and innovation. This will also serve the goals of the EU for re-industrialization and the stabilization of the European workforce.

**2.3 Are there any complementary aspects regarding innovation funding you would like to add to the replies given to the previous written consultation in the light of the European Council conclusions?**

326 characters

The revenues from auctioning should be reinvested for low carbon technology support, as foreseen in the ETS Directive, or energy efficiency. All ETS auctioning revenues should be used more cost-effectively and efficiently to assist the decarbonisation of European industry without impairing its international competitiveness.

### **3. Modernisation fund**

The European Council has concluded that 2% of the total EU ETS allowances in 2021 to 2030 should be dedicated to address the particularly high investment needs for Member States with GDP per capita below 60% of the EU average. The aim is to improve energy efficiency and to modernise the energy systems of the benefitting Member States. The fund should be managed by the beneficiary Member States, with the involvement of the European Investment Bank (EIB) in the selection of projects. To make this fund operational, a legal basis has to be created (in the EU ETS Directive), while further implementation modalities can be set out in secondary legislation.

With regard to establishing a legal basis for the modernisation fund as part of the revision of the EU ETS Directive, the Commission seeks feedback on the following questions:

**3.1 Implementation of the modernization fund requires a governance structure: What is the right balance between the responsibilities of eligible Member States, the EIB and other institutions to ensure an effective and transparent management?**

0 characters

**3.2 Regarding the investments, what types of projects should be financed by the modernisation fund to ensure the attainment of its goals? Should certain types of projects be ineligible for support?**

0 characters

**3.3 Should there be concrete criteria [e.g. cost-per-unit performance, clean energy produced, energy saved, etc.] guiding the selection of projects?**

338 characters

The selection of projects should be made on the basis of cost-efficiency criteria which should be defined under the specificities of a project (e.g. cost-per-unit performance). Furthermore, additionality to existing standards and legal provisions as well as maximisation of the public benefit of the projected supported shall be assessed.

**3.4 How do you see the interaction of the modernisation fund with other sources of funding available for the same type of projects, in particular under the optional free allocation for modernisation of electricity generation (see section 4 below)? Would accumulation rules be appropriate?**

165 characters

This modernization fund must not interact with other types of funding for industry in a way that it would negatively impact available means for industry to innovate.

**3.5 Do you have views how the assessment of the projects should be reflected in the forthcoming 2030 governance process (e.g. national climate programmes, and plans for renewable energy and energy efficiency)?**

0 characters

**3.6 Should the level of funding be contingent on concrete performance criteria?**

135 characters

Yes, the level of funding should be in adequacy with the performance criteria of the project. Focus should be given to cost efficiency.

## **4. Free allocation to promote investments for modernising the energy sector**

The conclusions of the European Council provide for the continuation after 2020 of the mechanism foreseen in Article 10c of the EU ETS Directive, which allows some Member States to opt to hand out free allowances to power plants in order to promote investments for modernising the energy sector. The current Article 10c modalities, including transparency, should be improved to promote investments modernising the energy sector, while avoiding distortions of the internal energy market.

With a view to reviewing and improving the current modalities as part of the revisions to the EU ETS Directive, the Commission seeks feedback on the following questions:

### **4.1 How can it be ensured that investments have an added value in terms of modernising the energy sector? Should there be common criteria for the selection of projects?**

0 characters

### **4.2 How do you see the interaction of the free allocation to energy sector with other sources of funding available for the same type of projects, e.g. EU co-financing that should be made available for the projects of common interest under the 2030 climate and energy framework? Would accumulation rules be appropriate?**

317 characters

If free allocation is given to the energy sector, it should be fixed to a certain amount. Focus should be on cost efficiency. There should be no interaction between two different sources of funding.

It should also be clarified which kind of investment has been done in the past and the cost of the reduction achieved.

### **4.3 Do you have any views how the assessment of the projects should be reflected in the forthcoming 2030 governance process (e.g. as regards improving transparency)?**

0 characters

### **4.4 The maximum amount of allowances handed out for free under this option is limited. Do you think eligible Member States should use the allowances for a period of time specified in advance (e.g. per year), or freely distribute them over the 2021-2030 period? (Please explain your motivation.)**

266 characters

This has to be spread over years, firstly because weather, economics and other factors affect emissions from one year to the next, and secondly because projects last more than one year.

In any case free allowances for industry must remain and must not be compromised.

### **4.5 Should there be priorities guiding the Member States in the selection of areas to be supported?**

Yes No

**4.6 How can improved transparency be ensured with regard to the selection and implementation of investments related to free allocation for modernisation of energy? In particular regarding the implementation of investments, should allowances be added to auctioning volumes after a certain time period has lapsed in case the investment is not carried out within the agreed timeframe?**

238 characters

Yes, allowances should be added to auctioning volumes after a certain time period has lapsed. This suits a framework where industry is allowed to grow in a sustainable way and where sufficient means are available for industry to innovate.

## **5. SMEs / regulatory fees / other**

In order to allow taking stock of the EU ETS aspects beyond those examined by the European Council, respondents are also invited to provide feedback on certain other questions.

The Commission ensures that better regulation principles govern all of the policy work, including that the specificities of small and medium sized enterprise (SMEs) are taken into due consideration. Member States can exclude certain small installations from the EU ETS in the current trading period (2013-2020) if taxation or other equivalent measures are in place that will cut their emissions. If such a possibility was to be reviewed, a legal basis would have to be created in the EU ETS Directive.

The accurate accounting of all emission allowances issued is assured by a single Union Registry with strong security measures. The operations were centralised in a single Registry operated by the Commission, following a revision of the ETS Directive in 2009. This has replaced Member States' national Registries. Despite the considerable resources from the EU budget required for maintaining the EU Registry, as does supporting work on auctioning, the Commission does not have the possibility to charge any fees. However, Member States administrators may still charge Registry fees to account holders administered by them. There are discrepancies in fees across different Member States.

**5.1 Are there any EU ETS administrative requirements which you consider can be simplified? Do you see scope to reduce transaction costs, in particular for SMEs? If yes, please explain in detail.**

1526 characters

The potential for raising the thresholds in Annex I of the Emissions Trading Directive ("categories of activities to which this directive applies") should be explored in order to remove less relevant sources of emissions from the scope of the directive. Environmental, energy efficiency and other regulations apply also to SMEs. A thorough Impact Assessment should clarify whether their competitiveness can be improved by not subjecting them to the ETS in the future.

For the monitoring of GHG emissions the application of standard values and the use of historic data should be accepted on a broader basis, especially also for major source streams of installations emitting high quantities of GHG.

The data required with respect to account holders and authorised representatives should as first priority be retrieved from national, secure databases and only subsequently be provided by the account holders concerned. This will not only reduce the burden laid on the account holders and the institutions involved but also increase the availability and accuracy of the data involved.

There are also a number of simplifications that should be made to the registry. For instance, the number of circumstance requiring the entry of a password and mobile phone number, and a text response, should be reduced to help when actions are required on all of a firm's accounts at the same time (especially at year-end verification) and the 26-hour delay on transactions between a company's own accounts removed to help with basic housekeeping.

**5.2 Member States had the possibility to exclude small emitting installations from the EU ETS until 2020. Should this possibility be continued? If so, what should be the modalities for opt-out installations to contribute to emission reductions in a cost-effective and economically efficient manner? Should these be harmonised at EU level?**

1089 characters

Yes, small emitting installations should continue to be allowed to be excluded in the future. The modalities for this should be based on best practice experiences in Member States. In line with the new Commission's objective of reducing EU bureaucracy and focusing only on bigger priorities, the opt-out possibility should be extended to installations with annual emissions below 50,000 tonnes CO<sub>2e</sub> a year. This should be entirely based on a site's emissions and not take into account its thermal input which might be a historic legacy and totally irrelevant to current operations.

Generally, as stated under question 5.1, the potential for raising the thresholds in Annex I of the Emissions Trading Directive ("categories of activities to which this directive applies") should be explored in order to remove less relevant sources of emissions from the scope of the directive. Environmental, energy efficiency and other regulations apply also to SMEs. A thorough Impact Assessment should clarify whether their competitiveness can be improved by not subjecting them to the ETS in the future.

**5.3 How do you rate the importance of a high level of security and user-friendliness of the Union Registry? Do you think the costs for providing these services should be covered via Registry fees?**

172 characters

The costs for businesses should be borne by the public generating these efforts in order to avoid any disadvantages and additional costs with respect to global competition.

**5.4 Do you consider discrepancies in Registry fees in different Member States justified? Should Registry fees be aligned at EU level?**

156 characters

Discrepancies in Registry fees between Member States are not justified. Therefore the Registry fees should be abandoned, at least aligned between countries.

**5.5 Under the current EU ETS Directive, at least 50% of the revenues generated from the auctioning of allowances should be used by Member States for climate-related purposes. For the calendar year 2013 Member States have reported to have used or to plan to use 87 % on average to support domestic investments in climate and energy. Do you consider the current provisions regarding the use of the revenues adequate for financing climate action? If not, please explain why?**

696 characters

The ETS Directive states that half of auctioning revenues should be spent on decarbonisation measures. As revenues are generated by sectors that are part of the ETS, this is a noteworthy opportunity to pursue an active industry policy (i.e. through a large breakthrough technology programme for innovation in energy intensive industry). However, such support must not reduce the free allocation volumes and carbon leakage provisions. Furthermore, policy-makers must refrain from using decarbonisation policies for revenue raising as this would deplete the funds companies have for investing in their plants. Any support for individual industries has to be provided on a technology-neutral basis.

## 6. General evaluation

**6.1 How well do the objectives of the EU ETS Directive correspond to the EU climate policy objectives?**

**How well is the EU ETS Directive adapted to subsequent technological or scientific changes?**

4420 characters

Article 1 of the EU ETS Directive establishes its objective as "... to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner". This statement is of such general a nature that it should very well correspond to any formulation of EU climate policy objectives. It is however also too general to offer definitive guidance for decision making on important details. Especially with regard to the fate of energy-intensive industrial activities in Europe, the respective principles established by the European Council Conclusions from October 2014 and March 2014 (especially EUCO 7/1/14; point 14 and 15; EUCO 169/14; Point 2.4) would be a valuable extension.

Currently, the Directive and especially its implementation rules are focused on the creation of a CO<sub>2</sub>-price signal as the only driver for technological change. Whilst this may be appropriate for the power sector (even there probably only during the initiation of progress down the transformation path of the power sector), this is not the case for the manufacturing sector. Improving the ETS for the time post-2020 should focus on how this instrument has to be designed in order to make it ready for internationalization.

The EU ETS provides a technology-neutral carbon price signal. However, for the long term, specific investments may be needed in the industry and in the power sector to avoid the technological lock-in. These investments in breakthrough technologies have to cover the research, pilot and demonstration phases as well as their deployment. As the decarbonisation of the economy entails

a complete reshaping of the industry and in particular of the steel industry as a major CO<sub>2</sub> emitter, this requires long term planning and budgeting of funding over several decades. The EU ETS is incapable of providing the necessary long-term carbon price signal and in the meantime simply removes funds that could be invested in decarbonisation. In this regard, the EU ETS is totally ineffective in promoting breakthrough technologies.

The carbon price increase sought by the introduction of the Market Stability Reserve will not change this. It is likely to foster one or the other renewable energy as the amount of subsidies they need to get into the market will go down. More generally higher carbon prices will increase the scarcity rent of the power sector, making some players in the power sector be better off, but without any obligation to invest in new technologies.

The aim of emissions trading was meant to be to reduce emissions at least cost. In this light, the significant reduction in emissions achieved to date, and low carbon price, should be seen as a success. Steelmakers have been very disappointed to see the goalposts moved and a new focus put on carbon prices.

It is a further disappointment that the European Commission's solution to this perceived problem – the MSR – is being agreed ahead of complementary reforms to carbon leakage reforms, needed to ensure sectors at risk are properly protected from higher ETS prices. This has resulted in lost opportunities for synergies between the two policies.

The ETS should be allowed to operate as closely as possible to a normal market, without being undermined by overlapping policies in renewables or energy efficiency, or constantly 'fixed' through a string of interventions, which increase uncertainty.

Having said that, interventions are needed to protect heavy industrial sectors like steel that produce CO<sub>2</sub> as a result of chemical reactions and are unable to pass on costs because they compete globally. These industries were not properly taken into account in the design of the scheme and without short-term mitigation options for reducing their emissions see their spare capital, which might have been invested in new technologies, eaten up by the purchase of allowances. We continue to be concerned that assessments of the extent of carbon leakage do not capture the gradual leaking of investment from the EU.

Rather than a series of small reforms, we would like a fundamental review of the ETS as it stands, and assessment of whether it can work for both the power sector and industry. There also needs to be a realistic look at what industries like steel can achieve in the short and medium-term, and how they can be supported to decarbonise while continuing to provide much needed jobs and a vital role in Europe's industrial supply chains.

**6.2 What are the strengths and weaknesses of the EU ETS Directive? To what extent has the EU ETS Directive been successful in achieving its objectives to promote emission reductions in a cost-effective manner compared to alternatives, e.g. regulatory standards, taxation?**

2449 characters

The EU ETS Directive initially was designed with a view to support climate policy ambition in line with the 2020-objectives and under the expectation of continuous and high economic growth. When the economy failed the Directive at least did not exacerbate the bad situation whilst maintaining the integrity of the European climate policy. In this respect it was a success, even if its direct

contribution to emission abatement was overwhelmed by the effects of the economic and financial crisis. However, neither regulatory standards nor taxation would have produced a better result.

Today, expectations on performance of the Directive have risen significantly and to a level, which very likely exceeds the potential of this tool, at least with respect to its current design. The Directive is supposed to establish and maintain a high CO<sub>2</sub>-price signal, to support the 2030 objectives and to initiate deep transformation of very different sectors (aviation, manufacturing industry and the power sector) with the same efficiency and effectiveness. It is thus most important and urgent to revise the Directive to enable it to deliver until 2030 (see also answer to question 1.2) and, in the light of possible climate objectives beyond 2030, suitable alternatives and their possible combinations must be evaluated.

The highest priority should be continued to be laid on the reduction of GHG emissions at least costs, for the society as a whole as well as for every single group of GHG emitters.

The EU ETS has been able to achieve its objectives in a cost-effective manner as long as the CO<sub>2</sub> price had reflected supply and demand. With the backloading proposal and the introduction of the MSR, this is no longer the case. The EU ETS must now meet two objectives: a decarbonisation one and a CO<sub>2</sub> price one.

Low carbon prices mean that the decarbonisation of the economy is achieved at a cheap price. Artificially increasing the carbon price with the MSR or by any other mean doesn't make the EU ETS cost-effective anymore.

The steel industry was originally in favour of emissions trading because of the opportunity it theoretically poses to reduce emissions at least cost. It also has a predictable outcome in terms of emissions reductions. However, the downside, in practice, has been increasing complexity and regulatory uncertainty.

Questions have to be asked about the relative costs and benefits of having the power sector and industry in the same scheme.

**6.3 To what extent are the costs resulting from the implementation of the EU ETS Directive proportionate to the results/benefits that have been achieved, including secondary impacts on financing/support mechanisms for low carbon technologies, administrative cost, employment impacts etc.? If there are significant differences in costs (or benefits) between Member States, what is causing them?**

1403 characters

It is certainly neither proportionate nor intended that installations with similar or better emission intensities than their direct competitors are forced to buy allowances whilst said competitors receive much more than they need for free. The technical reason is that the Directive does not allow additional free allowances in case of production-growth and this aspect is in dire need of correction, because it represents a very potent disincentive for carbon-efficient growth and thus creates an obstacle for the intended transformation towards a carbon lean economy.

Assessments of the costs and benefits of emissions trading have to look at the impact on individual industries, not just a general, amalgamated group. Some industries may well welcome higher carbon prices, but they by no means represent the majority in terms of emissions, or jobs.

Sectors like steel that are competing in a globalised economy, often on very small margins, find themselves repeatedly paying for the decarbonisation of others through the carbon price and their energy costs, stopping them investing in the much longer term and more expensive innovations they will need to reduce emissions. To date, where there has been financing for low-carbon technologies it has been focused almost entirely on the energy sector, even though that is one of the industries most able to pass on decarbonisation costs to its customers.

#### **6.4 How well does the EU ETS Directive fit with other relevant EU legislation?**

774 characters

Without the changes in the mechanism of the Directive (see question 1.2, question 2.3) it is not supporting any other legislation aiming at increasing the sustainability of the European Union but, to different degrees counteracts these. This refers especially to all kind of innovation funding and trade initiatives.

At the moment, the IED represents a significant challenge for the steel industry, competing for funding that could be spent on decarbonisation and in some cases increasing CO<sub>2</sub> emissions because of the energy needed for mitigation technologies.

We strongly believe that EU impact assessments should consider the effects of all the regulatory burdens imposed on a particular sector at any one time, not just those of the individual policy change being proposed.

#### **6.5 What is the EU value-added of the EU ETS Directive? To what extent could the changes brought by the EU ETS Directive have been achieved by national measures only?**

778 characters

Until now the Directive gave rise to unequal treatment within the European Union, partly depending on the Member State where an installation is situated. For the period 2013 to 2020 some measures have been implemented to reduce such effects but more needs to be done for the period 2021 to 2030. A very obvious example is the question of compensation for carbon costs passed through to leakage-risk installations.

The value-added of the EU ETS is that it is a harmonized instrument. A major improvement would be the introduction of harmonized rules for a decent level of indirect CO<sub>2</sub> compensation along the lines of what is done for free allocation.

If designed properly, such modification would best address completion issues within the single market and towards third countries.

#### **6.6 Do you have any other comment on the revision of the EU ETS Directive that you would like to share?**

1004 characters

The EU ETS Directive in its current form represents an institutional compromise designed to deal with the “2020 objectives”. This design is not suitable to support the “2030 objectives” and is thus in need of revision (see above). If the European Union would step up her ambition beyond the 2030

objectives the Directive very likely might be fundamentally unable to shoulder this at least not for all sectors. Thus, as soon as the revision for the period 2021 to 2030 has been established, discussion on a post-2030 regime should be started in a structured way.

This discussion must look at how well the scheme is working for all participants. Just because current studies do not find clear evidence of carbon leakage to date, does not mean it is not happening in more subtle ways, or will not happen once the MSR pushes up prices.

Furthermore impact assessments are needed to assess the impact of the revision of EU ETS Directive on the different sectors of the EU industry for a fact based policy making.